

Amanda Hull, <i>on behalf of herself and others</i>	)	
<i>similarly situated,</i>	)	Case No.
	)	
Plaintiff,	)	
	)	<b>CLASS ACTION COMPLAINT</b>
v.	)	
	)	
ZR Consulting, LLC, dba Pinehurst Funding, and	)	
Zachary Ramirez,	)	Jury Trial Demanded
	)	
Defendants.	)	
	)	

1. Amanda Hull (“Plaintiff”) brings this class action lawsuit against ZR Consulting, LLC dba Pinehurst Funding (“ZR Consulting”), and Zachary Ramirez (together “Defendants”), under the Telephone Consumer Protection Act, 47 U.S.C. § 227 (“TCPA”).

3. As well, upon information and good faith belief, Defendants routinely violate 47 C.F.R. § 64.1200(c) and, in turn, 47 U.S.C. § 227(c)(5), by delivering more than one advertisement or marketing voice message to residential telephone numbers registered with the National Do-Not-Call Registry (“DNC Registry”) without prior express written invitation or permission.

4. This Court has subject matter jurisdiction under 47 U.S.C. § 227(c)(5) and 28  
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1 U.S.C. § 1331.

2 5. Venue is proper before this Court pursuant to 28 U.S.C. § 1391(b) as a substantial  
3 portion of the events giving rise to this action occurred in this district.

4 6. In particular, the subject voice messages were directed to Plaintiff's cellular  
5 telephone in this district, and Plaintiff received the subject voice messages in this district.

6 **Parties**

7 7. Plaintiff is a natural person who at all relevant times resided in Tenino, Washington.

8 8. ZR Consulting is an entity located in Anaheim, California.

9 9. ZR Consulting does business as Pinehurst Funding.

10 10. Mr. Ramirez is the chief executive officer, the principal, and the customer contact  
11 for ZR Consulting.

12 **Factual Allegations**

13 11. Plaintiff is, and at all times relevant to this action was, the regular and sole user of  
14 her cellular telephone number—(360) XXX-0449.

15 12. Plaintiff uses, and at all times relevant to this action used, her cellular telephone  
16 number as her personal residential telephone number.

17 13. Plaintiff does not use, and at no time relevant to this action used, her cellular  
18 telephone number for business or commercial purposes.

19 14. At all times relevant to this action—and over thirty days prior to delivery of the  
20 prerecorded voice messages at issue—Plaintiff's cellular telephone number was registered with  
21 the DNC Registry.

22 15. In December 2021, ZR Consulting delivered the following prerecorded voice  
23 message to Plaintiff's cellular telephone:

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1 Hey, this is Shawn calling you back. Uh, based on your business's Dun &  
2 Bradstreet score of 76, we did still have you preapproved for up to a \$500,000 line  
3 of credit starting at just 4.8%. Now the funds can be available in just 24 hours if  
4 you're interested. But the offer does expire soon, so please give me a call back at  
(949) 313-4441. Again, that number is (949) 313-4441. I hope you have a  
wonderful day. And thank you.

5 Click [HERE](#) to listen to recording.

6 16. Also in December 2021, ZR Consulting delivered the following prerecorded voice  
7 message to Plaintiff's cellular telephone:

8 Hey, this is Shawn calling you back. Uh, based on your business's Dun &  
9 Bradstreet score of 76, we did still have you preapproved for up to a \$500,000 line  
10 of credit starting at just 4.8%. Now the funds can be available in just 24 hours if  
11 you're interested. But the offer does expire soon, so please give me a call back at  
(949) 313-4441. Again, that number is (949) 313-4441. I hope you have a  
wonderful day. And thank you.

12 Click [HERE](#) to listen to recording.

13 17. Upon information and good faith belief, Mr. Ramirez materially participated in  
14 conduct that directly resulted in ZR Consulting delivering the subject prerecorded voice messages  
15 to Plaintiff's cellular telephone.

16 18. Upon information and good faith belief, Mr. Ramirez was personally involved in  
17 conduct that directly resulted in ZR Consulting delivering the subject prerecorded voice messages  
18 to Plaintiff's cellular telephone.

19 19. Upon information and good faith belief, Mr. Ramirez was regularly engaged in  
20 conduct that directly resulted in ZR Consulting delivering the subject prerecorded voice messages  
21 to Plaintiff's cellular telephone.

22 20. Upon information and good faith belief, Mr. Ramirez exercised, for the relevant  
23 time period, control over the affairs of ZR Consulting.

1           21.    Upon information and good faith belief, ZR Consulting delivered the subject  
2 prerecorded voice messages to Plaintiff on behalf of Mr. Ramirez.

3           22.    Upon information and good faith belief, ZR Consulting delivered the subject  
4 prerecorded voice messages to Plaintiff at the direction of Mr. Ramirez.

5           23.    Upon information and good faith belief, ZR Consulting delivered the subject  
6 prerecorded voice messages to Plaintiff with the authorization of Mr. Ramirez.

7           24.    Upon information and good faith belief, ZR Consulting delivered the subject  
8 prerecorded voice messages to Plaintiff for the benefit of Mr. Ramirez.

9           25.    Upon information and good faith belief, Mr. Ramirez trained ZR Consulting's  
10 employees regarding their delivery of advertising and marketing messages to Plaintiff and other  
11 consumers.

12          26.    Plaintiff received and listened to the prerecorded voice messages that ZR  
13 Consulting delivered to her cellular telephone.

14          27.    Plaintiff does not, nor did, have any business relationship with either ZR Consulting  
15 or Mr. Ramirez.

16          28.    Plaintiff did not provide her cellular telephone number to either ZR Consulting or  
17 Mr. Ramirez.

18          29.    Neither ZR Consulting nor Mr. Ramirez obtained Plaintiff's cellular telephone  
19 number from Plaintiff.

20          30.    Plaintiff did not give Defendants prior express consent for either ZR Consulting or  
21 Mr. Ramirez to place calls, in connection with which an artificial or prerecorded voice was used,  
22 to her cellular telephone number.

1           31.     Neither ZR Consulting nor Mr. Ramirez obtained from Plaintiff prior express  
2 consent to place calls, in connection with which an artificial or prerecorded voice was used, to her  
3 cellular telephone number.

4           32.     The purpose of the subject voice messages was to advertise and market ZR  
5 Consulting's and/or Mr. Ramirez's business or services.

6           33.     Plaintiff did not give either ZR Consulting or Mr. Ramirez prior express invitation  
7 or permission to deliver advertisement or marketing voice messages to her cellular telephone  
8 number.

9           34.     Neither ZR Consulting nor Mr. Ramirez obtained from Plaintiff prior express  
10 written invitation or permission to deliver advertisement or marketing voice messages to her  
11 cellular telephone number.

12           35.     Plaintiff did not request information or promotional materials from either ZR  
13 Consulting or Mr. Ramirez.

14           36.     ZR Consulting placed the subject calls to Plaintiff's cellular telephone number for  
15 non-emergency purposes.

16           37.     ZR Consulting placed the subject calls to Plaintiff's cellular telephone number  
17 voluntarily.

18           38.     ZR Consulting placed the subject calls to Plaintiff's cellular telephone number  
19 under its own free will.

20           39.     ZR Consulting had knowledge that it was using an artificial or prerecorded voice  
21 in connection with the subject calls to Plaintiff's cellular telephone number.

22           40.     Plaintiff suffered actual harm as a result of the voice messages at issue in that she  
23 suffered an invasion of privacy, an intrusion into her life, and a private nuisance.

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41. Upon information and good faith belief, Defendants knew, or should have known, that Plaintiff's cellular telephone number was registered with the DNC Registry.

42. Consumers other than Plaintiff have complained about ZR Consulting's practice of delivering advertisement or marketing voice messages without prior express invitation or permission:

In May 2020, BBB investigated ZR Consulting LLC's business practices. This investigation was prompted by the seriousness of consumer inquiries received by the BBB. Consumers allege the business is making spoofing, robocalls, unsolicited phone calls, and charging upfront fees when assisting business owners with the Small Business Administration (SBA) and Paycheck Protection Program (PPP).

<https://www.bbb.org/us/ca/anaheim/profile/financial-services/zr-consulting-llc-1126-1000058128> (last visited Feb. 23, 2022).

### Class Action Allegations

43. Plaintiff brings this action under Federal Rule of Civil Procedure 23, and as a representative of the following classes:

*Prerecorded Voice Class:* All persons throughout the United States (1) to whom ZR Consulting, LLC, dba Pinehurst Funding, placed, or caused to be placed, a call, (2) directed to a number assigned to a cellular telephone service, but not assigned to a person with an account with ZR Consulting, LLC, dba Pinehurst Funding, (3) in connection with which ZR Consulting, LLC, dba Pinehurst Funding, used an artificial or prerecorded voice, (4) from four years preceding the date of this class action complaint through the date of class certification.

*Telemarketing Class:* All persons throughout the United States (1) to whom ZR Consulting, LLC, dba Pinehurst Funding, delivered, or caused to be delivered, more than one voice and/or text message within a 12-month period, promoting ZR Consulting, LLC's, dba Pinehurst Funding, goods or services, (2) where the person's residential telephone number had been registered with the National Do Not Call Registry for at least thirty days before ZR Consulting, LLC, dba Pinehurst Funding, delivered, or caused to be delivered, at least two of the voice and/or text messages within the 12-month period, (3) within four years preceding the date of this complaint and through the date of class certification.

1           44.     Excluded from the classes are Defendants, ZR Consulting's officers and directors,  
2 members of their immediate families and their legal representatives, heirs, successors, or assigns,  
3 members of Mr. Ramirez's immediate family, and any entity in which Defendants have or had a  
4 controlling interest.

5           45.     Upon information and belief, the members of the classes are so numerous that  
6 joinder of all of them is impracticable.

7           46.     The exact number of members of the classes is unknown to Plaintiff at this time,  
8 and can be determined only through appropriate discovery.

9           47.     The classes are ascertainable because they are defined by reference to objective  
10 criteria.

11           48.     In addition, the members of the classes are identifiable in that, upon information  
12 and good faith belief, their telephone numbers, names, and addresses can be identified in business  
13 records maintained by Defendants, and by third parties.

14           49.     Plaintiff's claims are typical of the claims of the members of the classes.

15           50.     As they did for all members of the Prerecorded Voice Class, Defendants placed  
16 calls to Plaintiff's cellular telephone number in connection with which they used an artificial or  
17 prerecorded voice.

18           51.     As they did for all members of the Telemarketing Class, Defendants delivered  
19 solicitation voice messages to Plaintiff's residential telephone number more than thirty days after  
20 Plaintiff's telephone number was registered with the DNC Registry.

21           52.     Plaintiff's claims, and the claims of the members of the classes, originate from the  
22 same conduct, practice, and procedure on the part of Defendants.

23           53.     Plaintiff's claims are based on the same theories as are the claims of the members  
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1 of the classes.

2 54. Plaintiff suffered the same injuries as the members of the classes.

3 55. Plaintiff will fairly and adequately protect the interests of the members of the  
4 classes.

5 56. Plaintiff's interests in this matter are not directly or irrevocably antagonistic to the  
6 interests of the members of the classes.

7 57. Plaintiff will vigorously pursue the claims of the members of the classes.

8 58. Plaintiff has retained counsel experienced and competent in class action litigation.

9 59. Plaintiff's counsel will vigorously pursue this matter.

10 60. Plaintiff's counsel will assert, protect, and otherwise represent the members of the  
11 classes.

12 61. The questions of law and fact common to the members of the classes predominate  
13 over questions that may affect individual members of the class.

14 62. Issues of law and fact common to all members of the classes are:

15 a. Defendants' conduct, pattern, and practice as it pertains to placing calls in  
16 connection with which they use an artificial or prerecorded voice;

17 b. Defendants' conduct, pattern, and practice as it pertains to delivering advertisement  
18 and telemarketing voice messages;

19 c. Defendants' practice of delivering voice messages, for solicitation purposes, to  
20 telephone numbers already registered on the DNC Registry for more than thirty  
21 days;

22 d. Mr. Ramirez's control over ZR Consulting and ZR Consulting's delivery of  
23 artificial or prerecorded voice messages constituting advertising or telemarketing;



e. Defendants' violations of the TCPA; and

f. The availability of statutory penalties.

63. A class action is superior to all other available methods for the fair and efficient adjudication of this matter.

64. If brought and prosecuted individually, the claims of the members of the classes would require proof of the same material and substantive facts.

65. The pursuit of separate actions by individual members of the classes would, as a practical matter, be dispositive of the interests of other members of the class, and could substantially impair or impede their ability to protect their interests.

66. The pursuit of separate actions by individual members of the classes could create a risk of inconsistent or varying adjudications, which might establish incompatible standards of conduct for Defendants.

67. These varying adjudications and incompatible standards of conduct, in connection with presentation of the same essential facts, proof, and legal theories, could also create and allow the existence of inconsistent and incompatible rights within the classes.

68. The damages suffered by the individual members of the classes may be relatively small, thus, the expense and burden to litigate each of their claims individually make it difficult for the members of the classes to redress the wrongs done to them.

69. The pursuit of Plaintiff's claims, and the claims of the members of the classes, in one forum will achieve efficiency and promote judicial economy.

70. There will be no extraordinary difficulty in the management of this action as a class action.

71. Defendants acted or refused to act on grounds generally applicable to the members of the classes, making final declaratory or injunctive relief appropriate.

**Count I**  
**Violation of 47 U.S.C. § 227(b)(1)(A)(iii)**

72. Plaintiff repeats and re-alleges each and every factual allegation contained in paragraphs 1-71.

73. ZR Consulting violated 47 U.S.C. § 227(b)(1)(A)(iii) by using an artificial or prerecorded voice in connection with calls it placed to Plaintiff's cellular telephone number and the cellular telephone numbers of the members of the Prerecorded Voice Class, without consent.

74. As a result of ZR Consulting's violations of 47 U.S.C. § 227(b)(1)(A)(iii), Plaintiff and the members of the Prerecorded Voice Class are entitled to damages in an amount to be proven at trial.

75. Mr. Ramirez is liable for ZR Consulting's violations of the 47 U.S.C. § 227(b)(1)(A)(iii), as (i) he materially participated in conduct that directly resulted in ZR Consulting delivering prerecorded voice messages to Plaintiff's cellular telephone number, (ii) and/or he was personally involved in conduct that directly resulted in ZR Consulting delivering prerecorded voice messages to Plaintiff's cellular telephone, (iii) and/or he was regularly engaged in conduct that directly resulted in ZR Consulting delivering prerecorded voice messages to Plaintiff's cellular telephone, (iv) and/or he exercised, for the relevant time period, control over the affairs of ZR Consulting.

76. Mr. Ramirez is liable for ZR Consulting's violations of the 47 U.S.C. § 227(b)(1)(A)(iii) as ZR Consulting used an artificial or prerecorded voice in connection with calls it placed to Plaintiff's cellular telephone number and the cellular telephone numbers of the

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1 members of the Prerecorded Voice Class, without consent, and on behalf of Mr. Ramirez, and/or  
2 at the direction of Mr. Ramirez, and/or with the authorization of Mr. Ramirez, and/or for the benefit  
3 of Mr. Ramirez.

4 **Count II**  
5 **Violation of 47 U.S.C. § 227(c)(5)**

6 77. Plaintiff repeats and re-alleges each and every factual allegation contained in  
7 paragraphs 1-71.

8 78. In 2003, the Federal Communications Commission (“FCC”) ruled that cellular  
9 telephone numbers that are placed on the DNC Registry are presumed to be residential. *In Re Rules*  
10 *& Regulations Implementing the Tel. Consumer Prot. Act of 1991*, 18 F.C.C. Rcd. 14014, 14039  
11 (2003).

12 79. The TCPA’s implementing regulation, 47 C.F.R. § 64.1200(c), provides that “[n]o  
13 person or entity shall initiate any telephone solicitation” to “[a] residential telephone subscriber  
14 who has registered his or her telephone number on the national do-not-call registry of persons who  
15 do not wish to receive telephone solicitations that is maintained by the federal government.”

16 80. Section 64.1200(e) provides that §§ 64.1200(c) and (d) “are applicable to any  
17 person or entity making telephone solicitations or telemarketing calls to wireless telephone  
18 numbers.”

19 81. Any “person who has received more than one telephone call within any 12-month  
20 period by or on behalf of the same entity in violation of the regulations prescribed under this  
21 subsection may” may bring a private action based on a violation of those regulations, which were  
22 promulgated to protect telephone subscribers’ privacy rights to avoid receiving telephone  
23 solicitations to which they object. 47 U.S.C. § 227(c).

1           82.     ZR Consulting violated 47 C.F.R. § 64.1200(c) by initiating, or causing to be  
2 initiated, telephone solicitations to telephone subscribers such as Plaintiff and the Telemarketing  
3 Class members who registered their respective residential telephone numbers with the DNC  
4 Registry, which is a listing of persons who do not wish to receive telephone solicitations that is  
5 maintained by the federal government.

6           83.     ZR Consulting violated 47 U.S.C. § 227(c)(5) because it delivered, or caused to be  
7 delivered, to Plaintiff and members of the Telemarketing Class, more than one solicitation call  
8 and/or text message in a 12-month period in violation of 47 C.F.R. § 64.1200.

9           84.     As a result of ZR Consulting's violations of 47 U.S.C. § 227(c)(5) and 47 C.F.R. §  
10 64.1200, Plaintiff and the members of the Telemarketing Class are entitled to damages in an  
11 amount to be proven at trial.

12           85.     Mr. Ramirez is liable for ZR Consulting's violations of the 47 U.S.C. § 227(c)(5)  
13 and 47 C.F.R. § 64.1200, as he (i) materially participated in conduct that directly resulted in ZR  
14 Consulting delivering telemarketing messages to Plaintiff's residential telephone number, (ii) was  
15 personally involved in conduct that directly resulted in ZR Consulting delivering telemarketing  
16 messages to Plaintiff's residential telephone number, (iii) was regularly engaged in conduct that  
17 directly resulted in ZR Consulting delivering telemarketing messages to Plaintiff's residential  
18 telephone number, and (iv) exercised, for the relevant time period, control over the affairs of ZR  
19 Consulting.

20           86.     Mr. Ramirez is liable for ZR Consulting's violations of the 47 U.S.C. § 227(c)(5)  
21 and 47 C.F.R. § 64.1200 because ZR Consulting delivered to Plaintiff and members of the  
22 Telemarketing Class more than one solicitation call and/or text message in a 12-month period, on  
23

1 behalf of Mr. Ramirez, and/or at the direction of Mr. Ramirez, and/or with the authorization of Mr.  
2 Ramirez, and/or for the benefit of Mr. Ramirez.

3 **Prayer for Relief**

4 WHEREFORE, Plaintiff prays for relief and judgment, as follows:

- 5 a) Determining that this action is a proper class action;
- 6 b) Designating Plaintiff as a representative of the classes under Federal Rule of Civil  
7 Procedure 23;
- 8 c) Designating Plaintiff's counsel as class counsel under Federal Rule of Civil  
9 Procedure 23;
- 10 d) Adjudging and declaring that Defendants violated 47 U.S.C. § 227(b)(1)(A)(iii);
- 11 e) Enjoining Defendants from continuing their violative behavior, including  
12 continuing to place calls to Plaintiff's cellular telephone number, and to the cellular  
13 telephone numbers of members of the Prerecorded Voice Class, in connection with  
14 which they use an artificial or prerecorded voice;
- 15 f) Awarding Plaintiff and the members of the Prerecorded Voice Class damages under  
16 47 U.S.C. § 227(b)(3)(B);
- 17 g) Awarding Plaintiff and the members of the Prerecorded Voice Class treble damages  
18 under 47 U.S.C. § 227(b)(3);
- 19 h) Adjudging and declaring that Defendants violated 47 U.S.C. § 227(c)(5);
- 20 i) Enjoining Defendants from continuing their violative behavior, including  
21 continuing to deliver solicitation voice and text messages to telephone numbers  
22 registered with the DNC Registry for at least thirty days;

- j) Awarding Plaintiff and the members of the Telemarketing Class damages under 47 U.S.C. § 227(c)(5)(B);
- k) Awarding Plaintiff and the members of the Telemarketing Class treble damages under 47 U.S.C. § 227(c)(5)(C);
- l) Awarding Plaintiff and the classes reasonable attorneys' fees, costs, and expenses under Rule 23 of the Federal Rules of Civil Procedure;
- m) Awarding Plaintiff and the members of the classes any pre-judgment and post-judgment interest as may be allowed under the law; and
- n) Awarding such other and further relief as the Court may deem just and proper.

**Demand for Jury Trial**

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff demands a trial by jury of any and all triable issues.

Date: February 24, 2022

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